

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

RICHARD MILLER

Plaintiff,

v.

RAYTHEON COMPANY,

Defendant.

§
§
§
§
§
§
§
§
§
§
§
§
§
§
§
§

**CIV. A. NO. 3:09-cv-0440-O
ECF**

PLAINTIFF'S FEDERAL RULE 26(a)(3) PRETRIAL DISCLOSURES

TO THE HONORABLE REED O'CONNOR:

In accordance with the Court's trial setting order (Doc. No. 44), Plaintiff Richard Miller discloses the following information under Federal Rule of Civil Procedure 26(a)(3)(A) concerning the evidence that he may present at trial other than solely for impeachment purposes.

- (1) Miller's disclosure of the names and, if not previously provided, addresses and telephone numbers of each witness he expects to present and those he may call if the need arises.**

| | Witness | Address/telephone¹ | Expected/Possible |
|----|------------------------|--|--------------------------|
| 1. | William E. Anderson | Contact via Defendant's counsel | Possible |
| 2. | Kenneth L. Barham | | Possible |
| 3. | Dr. J. Herbert Burkman | c/o Hal K. Gillespie Gillespie, Rozen & Watsky P.C. 3402 Oak Grove Ave. Suite 200 Dallas, Texas 75204 Tel: (214) 720-2009 | Expected |
| 4. | Maggie Carter | c/o Defendant's counsel | Possible |
| 5. | Lisa Crump | McKinney, Texas* (<u>see</u> Crump) | Expected |

¹ Miller is not listing the home address and telephone number for individuals whose address is indicated by an (*) in deference to the individual's privacy. He will supply the address and telephone information within his possession upon request.

| | | | |
|-----|---|--|----------|
| | | depo. 4:18-24) | |
| 6. | Patricia Fine | | Possible |
| 7. | Rhonda Goins Brown | c/o Defendant's counsel | Possible |
| 8. | Vivek Kamath | c/o Defendant's counsel | Possible |
| 9. | James Lam | c/o Defendant's counsel | Possible |
| 10. | Robert Lyells | c/o Defendant's counsel | Possible |
| 11. | Greg Meihn | c/o Hal K. Gillespie Gillespie, Rozen & Watsky P.C. 3402 Oak Grove Ave., Suite 200 Dallas, Texas 75204 Tel: (214) 720-2009 | Expected |
| 12. | Richard Miller | c/o Hal K. Gillespie Gillespie, Rozen & Watsky P.C. 3402 Oak Grove Ave., Suite 200 Dallas, Texas 75204 Tel: (214) 720-2009 | Expected |
| 13. | Cheryl Miller | c/o Hal K. Gillespie Gillespie, Rozen & Watsky P.C. 3402 Oak Grove Ave., Suite 200 Dallas, Texas 75204 Tel: (214) 720-2009 | Expected |
| 14. | Tina Moore | c/o Defendant's counsel | Possible |
| 15. | Mike Paquee | McKinney, Texas* | Possible |
| 16. | Allen Reid | c/o Defendant's counsel | Possible |
| 17. | Ina D. Robinson | c/o Defendant's counsel | Possible |
| 18. | Matthew Shepherd | | Possible |
| 19. | Loretta Sweeney | c/o Defendant's counsel | Possible |
| 20. | Amos Wilson | Plano, Texas* (<u>see</u> Wilson depo. 5:3-11) | Expected |
| 21. | Custodian of Records Raytheon Company | c/o Defendant's counsel | Possible |
| 22. | Elsa Guerrero Custodian of Records Texas Workforce Commission – Civil Rights Division | 101 East 15 th Street Austin Texas 78778 (512) 463-2642 | Possible |
| 23. | Brenda Garza, Peter A. Robinson, or other | 207 S. Houston St., 3 rd Floor Dallas, Texas 75202 | Possible |

| | | | |
|--|---|--|--|
| | Custodian of Records U.S. Equal Employment Opportunity Commission | | |
|--|---|--|--|

(2) Miller's designation of witnesses whose testimony he expects to present by deposition.

Miller may present deposition testimony from the following witnesses if one or more of the circumstances listed in Federal Rule of Civil Procedure 32(a)(2)-(8) exist at the time of trial:

| Witness | Deposition (page(s)/line(s)) |
|---------------------|------------------------------|
| William E. Anderson | 7:19-8:4, 8:18-9:7 |
| | 14:7-15:1, 16:8-12 |
| | 17:7-9, 17:16-20 |
| | 30:3-31:7 |
| | 36:16-37:1 |
| | 38:18-47:18 |
| | 66:16-67:16 |
| | 39:3-70:5 |
| | 70:16-72:2 |
| | 76:9-78:14 |
| | 79:18-21 |
| Lisa Crump | 99:17-100:7 |
| | 4:11-13 |
| | 8:18-9:4 |
| | 9:20-10:12 |
| | 12:12-20 |
| | 13:5-14:24 |
| | 15:2-17 |
| | 19:5-20:12 |
| | 21:14-19 |
| | 22:15-21 |
| | 26:24-29:17 |
| | 30:6-25 |
| | 31:6-33:10 |
| | 34:5-35:9 |
| | 36:11-37:10 |

| | |
|--------------|--|
| | 37:24-38:2 |
| | 38:7-9, 38:21-23 |
| | 39:2-10, 39:15-40:2 |
| | 40:21-41:13 |
| | 42:24-44:3 |
| | 44:4-17 |
| | 46:12-47:16 |
| | 48:7-49:3 |
| | 49:5-50:15 |
| | 52:12-53:4 |
| | 59:17-61:8 |
| | 61:24-62:5 |
| | 63:23-65:18 |
| | 66:4-67:16 |
| | 67:18-70:7 |
| | 71:11-23 |
| | 72:15-73:11 |
| | 75:25-77:24 |
| | 78:11-14 |
| | 78:25-79:18 |
| | 80:21-23, 81:1-83:8 |
| | 84:5-85:5 |
| | 85:24-87:17 |
| | 91:6-16, 91:19-22 |
| | 92:17-94:23 |
| | 96:7-20 |
| | 98:8-99:4 |
| | 100:10-101:21 |
| | 102:11-103:2 |
| | 106:5, 106:19-107:4, 107:20-108:8 |
| | 108:13-20, 109:5-110:15 |
| | 111:4-112:11 |
| | 113:21-114:20 |
| | 115:21-25 |
| | 116:17-117:2, 117:8-24, 118:6-10, 118:23 |
| | 124:3-125:25 |
| | 126:4-127:20 |
| | 128:7-21 |
| Vivek Kamath | 5:7-11, 5:16-6:14 |

| | |
|---------------|-----------------------|
| | 8:20-9:24 |
| | 10:14-23 |
| | 11:11-21 |
| | 31:22-35:20 |
| | 53:23-54:13 |
| | 58:16-59:19 |
| | 60:5-18 |
| | 77:20-78:13 |
| | 81:7-82:10 |
| | 85:15-86:5 |
| | 88:15-24 |
| | 91:18-92:18 |
| | 97:24-98:1 |
| | 98:10-99:13 |
| | 100:25-101:16 |
| | 104:5-19 |
| | 106:4-9, 107:17-111:8 |
| | 111:1-5 |
| | 119:15-120:20 |
| | 123:3-6, 123:17-23 |
| | 126:12-127:12 |
| James Lam | 6:13-7:5 |
| | 8:12-17 |
| | 18:21-24 |
| | 19:3-14 |
| | 29:24-30:3, 30:6-17 |
| Robert Lyells | 8:11-24, 9:1-8 |
| | 13:10-14:1 |
| | 15:1-16:17 |
| | 17:19-18:6, 19:1-14 |
| | 23:6-24:23 |
| | 25:3-26:14 |
| | 29:1-4 |
| | 30:1-32:7-12 |
| | 34:22-35:10 |
| | 43:11-45:10 |
| | 46:15-49:3 |
| | 63:13-64:9 |
| | 79:7-10, 80:5-14 |
| | 90:11-91:1 |
| | 95:14-20 |
| | 105:9-22, 106:6-14 |
| | 111:10-19 |

| | |
|------------|-------------------------|
| | 115:11-116:1, 117:15-18 |
| | 119:1-120:8 |
| | 124:2-125:1 |
| | 135:9-15 |
| | 148:4-11 |
| | 148:16-25 |
| | 155:9-156:1 |
| | 156:24-157:5 |
| | 165:3-166:3 |
| | 169:11-18 |
| | 170:20-25 |
| | 175:8-176:8 |
| | 179:19-182:1 |
| | 192:6-193:3 |
| | 199:7-200:3 |
| | 202:1-5 |
| | 202:13-203:9, 203:17-20 |
| | 206:18-23 |
| | 237:20-238:20 |
| Allen Reid | 9:12-20 |
| | 10:10-20 |
| | 12:9-14 |
| | 13:23-17:1 |
| | 18:21-24 |
| | 35:4-18 |
| | 45:18-23 |
| | 47:11-48:18 |
| | 51:5-11 |
| | 52:8-53:9 |
| | 56:5-9 |
| | 56:22-57:11 |
| | 59:24-60:12 |
| | 61:2-62:6 |
| | 63:3-65:8, 65:10-13 |
| | 66:8-13, 66:17-19 |
| | 74:23-76:10 |
| | 77:9-78:8 |
| | 79:2-80:13 |
| | 82:6-83:7 |
| | 87:4-88:10 |
| | 89:23-91:14 |
| | 92:19-93:17 |
| | 110:8-11:1 |

| | |
|-----------------|----------------------------------|
| | 111:3-116:3 |
| | 117:9-118:9 |
| | 123:10-124:1 |
| | 124:24-126:10 |
| | 127:3-18 |
| | 132:16-135:23 |
| | 138:23-140:14 |
| | 141:18-144:7 |
| | 145:22-146:11 |
| | 164:1-165:8 |
| | 182:6-187:19 |
| | 193:15-196:13 |
| | 198:4-199:5 |
| | 205:16-208:13 |
| Loretta Sweeney | 4:11-13, 4:16-5:1 |
| | 5:16-6:13 |
| | 9:12-15 |
| | 10:16-11:3 |
| | 16:2-18:9 |
| | 18:22-19:19 |
| | 27:7-12 |
| | 28:15-31:6 |
| | 32:13-33:6, 33:15-19, 33:25-34:6 |
| | 36:1-9 |
| | 36:17-37:12 |
| | 38:6-14 |
| | 39:6-40:22 |
| | 43:4-9 |
| | 44:23-46:16, 47:6-13 |
| | 54:12-14 |
| | 55:19-25 |
| | 56:25-58:20 |
| | 60:5-14 |
| | 62:15-17, 22-25 |
| | 63:6-8, 64:1-10 |
| | 87:25-88:5 |
| | 88:21-89:15 |
| | 91:22-92:4 |
| | 93:1-94:9 |
| | 95:21-96:6 |
| | 102:3-103:19 |
| | 104:13-15 |
| | 104:21-105:4 |

| | |
|-------------|--------------------------|
| | 112:8-12 |
| | 4:11-12 |
| | 5:14-16 |
| | 8:6-19 |
| | 9:13-11:1 |
| | 12:2-13:9 |
| | 16:12-24 |
| | 17:5-11 |
| | 21:25-22:21 |
| | 24:2-15 |
| | 25:21-28:3 |
| | 31:13-39:22 |
| | 42:24-43:24 |
| | 46:18-47:13, 47:20-48:18 |
| | 49:13-53:13 |
| | 54:2-57:16 |
| | 57:22-58:13 |
| | 58:18-59:21 |
| | 63:22-64:16 |
| | 66:7-21 |
| | 67:5-8, 67:21-68:9 |
| | 69:2-6 |
| | 70:12-72:17 |
| | 72:23-73:6 |
| | 73:12-74:16 |
| | 76:25-77:8 |
| | 77:19-80:2 |
| | 80:13-16 |
| | 81:1-10 |
| | 93:11-95:1 |
| | 95:14-19 |
| | 96:8-10, 96:14 |
| | 98:12-99:13 |
| | 106:15-107:18 |
| | 108:5-23 |
| | 110:12-17 |
| | 110:23-111:22 |
| | 112:19-25 |
| | 113:20-114:3 |
| | 121:2-122:6 |
| | 123:6-16, 123:19-124:10 |
| | 124:15-17 |
| | 124:20-23 |
| Amos Wilson | 126:10-127:11 |

| | |
|--|---------------|
| | 132:21-133:5 |
| | 133:19-134:13 |
| | 134:15-135:13 |
| | 135:19-136:7 |
| | 136:25-137:25 |
| | 138:20-139:12 |
| | 141:10-12 |
| | 148:24-149:12 |
| | 150:13-151:6 |
| | 152:4-7 |
| | 160:12-15 |
| | 161:8-164:22 |

Miller's counsel deposed each of these witnesses before a certified court reporter and/or videographer. Because Miller may use some of the above-listed testimony for limited purpose(s), or because the testimony may be admissible only for limited purpose(s), Miller's disclosure of this testimony is not intended to waive any objection that he may have as to its admissibility for other purposes.

(3) Documents, exhibits, and summaries of other evidence that Tapp expects to offer or that she may offer if the need arises.

| | Exhibit/Summary | Identifier | Expected/Possible |
|----|--|------------------------------|--------------------------|
| 1. | Richard Miller's résumé | RM 1020-1021 | Expected |
| 2. | Performance Development Summaries re: Richard Miller | Raytheon/Miller 186, 193-196 | Expected |
| 3. | Additional Performance Development Summaries re: Richard Miller | RM 1022-1133 | Possible |
| 4. | Excerpts of Miller's notes | RM 206-219 | Expected |
| 5. | 2007 Performance Screen re: Richard Miller | Ex. 11/RM 585-90 | Possible |
| 6. | Excerpts of Miller's notes re: 2007 mid-year review and staff meetings | RM 550, 563 | Possible |

| | | | |
|-----|---|---|----------|
| 7. | Michael Rynbrandt résumé | Raytheon/Miller 1018-1019 | Possible |
| 8. | Performance Development Summaries re: Michael Rynbrandt | Raytheon/Miller 1020-24 | Possible |
| 9. | RIF Q&A | Ex. 34/ Raytheon/Miller 278 | Possible |
| 10. | SCM RIF ADEA worksheet (and cover e-mail) | Ex. 36/RM 141, 195-205 | Expected |
| 11. | RIF Worksheet re: Mar. 2008 RIF | Ex. 37/ Raytheon/Miller 389-91 | Expected |
| 12. | Open job requisition worksheet (as of 4/6/08) | Ex. 38/ Raytheon/Miller 367-75 | Expected |
| 13. | Long Service Review Committee notes | Ex. 39/ Raytheon/Miller 1124-1127 | Possible |
| 14. | Profile – Experience re: Richard Miller | Ex. 43/ Raytheon/Miller 70 | Expected |
| 15. | 2007 Performance Development Summary re: Richard Miller and cover email | Ex. 46/ Raytheon/Miller 184-85, RM 180 | Expected |
| 16. | Performance Development Summaries re: Kenneth Barham | Ex. 48/ Raytheon/Miller 1109-1112 | Expected |
| 17. | Various open job requisitions | Ex. 14/Raytheon/Miller 993-98; Ex. 15/Raytheon/Miller 969-71; Ex. 18/Raytheon/Miller 982-84; Ex. 24/Raytheon/Miller 1003-08 | Possible |
| 18. | Various open job requisitions | RM 1307-1317 | Possible |
| 19. | Internal recruiting screen re: Richard Miller | Ex. 19/Richard/Miller | Possible |
| 20. | HREIS report screen re: Richard Miller | Ex. 52/Raytheon/Miller 1114 | Expected |
| 21. | Organization Chart | Ex. 53/ Raytheon/Miller 1115-1123 | Expected |
| 22. | Organization Charts | Ex. 55/ Raytheon/Miller 9-11 | Expected |
| 23. | E-mail chain dated 2/27/08 | Ex. 58/ Raytheon/Miller 861-864 | Possible |
| 24. | E-mail chain between Lyells and Miller dated 1/31/08 | Raytheon/Miller 867-68 | Possible |
| 25. | Job requisition: #SAS10585 | Ex. 64/ Raytheon/Miller 1015-1017 | Expected |
| 26. | G. Meihn e-mail to J. Lam | RM 188 | Expected |

| | | | |
|-----|--|---|----------|
| | dated 6/16/08 | | |
| 27. | J. Lam notes of telephone calls | Raytheon/Miller 224 | Possible |
| 28. | HREIS report screen re: Richard Miller | Ex. 74/ Raytheon/Miller 287-88 | Expected |
| 29. | Job requisition: #SAS108836 | Ex. 83/ Raytheon/Miller 987 -989 | Expected |
| 30. | Candidate Workflow Status re: Richard Miller | Raytheon/Miller 1044 | Expected |
| 31. | Screenshot of job requisition status | Ex. 88A/ Raytheon/Miller 1063-64 | Possible |
| 32. | Excerpts of Candidate Workflow Status re: #SAS108836 | Raytheon/Miller 1361 (Exs. 85-87) | Possible |
| 33. | Raytheon's EEOC position statement, plus business records declaration | Ex. 50/ Raytheon/Miller 828-831, 811 | Expected |
| 34. | Excerpts of Raytheon Company's 2008 Annual Report | Located at www.raytheon.com | Expected |
| 35. | Excerpts of Raytheon Company's 2009 Annual Report | Located at www.raytheon.com | Expected |
| 36. | SEC Form 8-k re: Raytheon Company, dated 1/28/10 | Raytheon/Miller 1362-86 | Expected |
| 37. | Economic assessment report for Richard Miller by Dr. J. Herbert Burkman (dated Dec. 16, 2009) | RM 1318-1339 | Expected |
| 38. | Various documents concerning Miller's earnings relied upon by Dr. Burkman | Raytheon/Miller 39-68, 197- 209; RM 91-114, 569-80, 595-97, 610-13, 623-24, 628-30, 632 637, 641-42, 1305-06. | Expected |
| 39. | Various achievement awards earned by Richard Miller | RM 630, 633, 635-36, 639- 40, 643-45 | Possible |
| 40. | Richard Miller – Job Search Log | RM 230-32 | Expected |
| 41. | Richard Miller – supplemental job search | To be supplemented | Expected |
| 42. | Documents relating to Miller's job search | RM 244-439 | Expected |
| 43. | Defendant Raytheon Company's Answers and/or Objections to Plaintiff's Interrogatories (No. 7) | Ex. 61 | Expected |

| | | | |
|-----|---|-------------|----------|
| 44. | Defendant Raytheon Company's Answers and/or Objections to Plaintiff's Third Interrogatories (Nos. 17, 21) | Ex. 71 | Possible |
| 45. | March 16, 2010 declaration of Amos Wilson | Doc. No. 42 | Expected |
| 46. | Severance offer and release of claims re: Richard Miller | RM 115-117 | Expected |
| 47. | Richard Miller's charge of age discrimination (#450-2008-04615) | RM 6-7 | Expected |
| 48. | EEOC Dismissal and Notice of Right to Sue | RM22 | Possible |
| 49. | TWC Notice of Right to File a Civil Action | RM 46 | Possible |
| 50. | Timeline of Events (demonstrative) | | Expected |
| 51. | Summary of Damages (current through time of trial) | | Expected |
| 52. | Evidence Summary Charts (demonstrative) | | Expected |

To the extent that Miller does not object to the admissibility of Defendant's proposed exhibits, he incorporates into these disclosures any exhibit listed in Defendant's pretrial disclosures.

DATED: June 1, 2010

Respectfully submitted,

GILLESPIE, ROZEN & WATSKY P.C.
3402 Oak Grove Avenue, Suite 200
Dallas, Texas 75204
Tel: (214) 720-2009
Fax: (214) 720-2291

/s/ Yona Rozen

Hal K. Gillespie
Attorney-in-Charge
Texas Bar No. 07925500
hkg@grwlawfirm.com
Yona Rozen
Texas Bar No. 17958500
yrozen@grwlawfirm.com
Edith K. Thomas
Texas Bar No. 24060717
ethomas@grwlawfirm.com
James D. Sanford
Texas Bar No. 24051289
jsanford@grwlawfirm.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned certifies that on June 1, 2010 he electronically submitted the foregoing document to the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case files system of the court. The electronic case files system sent a "Notice of Electronic Filing" to the following individuals, who have consented in writing to accept this Notice as service of this document by electronic means: Michael P. Maslanka, Esq., and Buena Vista Lyons, Esq., of FORD & HARRISON LLP, attorneys for Defendant Raytheon Company.

/s/ James D. Sanford

One of Plaintiff's Counsel